

Court of Appeals, State of Michigan

ORDER

People of MI v Urmilkumar Shah

Brian K. Zahra
Presiding Judge

Docket No. 294763

Kirsten Frank Kelly

LC No. 08-4438-01-FH

Karen M. Fort Hood
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the October 23, 2009, order of the Wayne Circuit Court granting defendant's motion for early release hereby is REVERSED. A trial court has no authority to set aside a valid sentence and impose a new one in that it would contravene the governor's exclusive power under the Constitution to commute sentences. *People v Whalen*, 412 Mich 166, 169; 312 NW2d 638 (1981). Defendant's sentence was not invalid, so the trial court was without the power to vacate it. *People v Gross*, 118 Mich App 161, 168; 324 NW2d 557 (1982).

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 27 2009

Date

Sandra Schultz Mengel
Chief Clerk